

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RUDOLPH GEORGE STANKO,

Defendant.

8:05CR93

ORDER

This matter is before the court on defendant's motion for leave to appeal in forma pauperis, Filing No. 581; request for transcript, Filing No. 582; motion for witness fees, Filing No. 583; motion to be treated equally, Filing No. 584; and motion to stop the cruel and unusual punishment, Filing No. 585.

The court held a hearing on August 21, 2013, regarding defendant's revocation of supervised release. The court listened to evidence and determined that the defendant did violate his conditions of release. The court revoked his release and sentenced him to the custody of the Bureau of Prisons for seven days. Filing Nos. 576 and 579. Defendant has appealed to the Eighth Circuit Court of Appeals. Filing No. 580.

With regard for the motion for leave to appeal in forma paupers, the court finds that the motion must be denied. Defendant has not filed an affidavit of poverty, Financial Affidavit CJA Form 23, in quite some time, and the government contends that the defendant has real estate valued in excess of \$1,000,000. Accordingly, the court will deny the motion to proceed in forma paupers, the motion for free transcripts, and the motion to appoint counsel, until such time as defendant files an affidavit of poverty.

If the defendant chooses to file the affidavit of poverty, he may reassert the motions and the court will address them at that time.

With regard to the motion to be treated equally and the motion to stop the cruel and unusual punishment, the court finds these motions are frivolous and without merit. First, the Bureau of Prisons is responsible for computing good time served. Second, whether defendant's refusal to take the tuberculosis shot is grounds for time in "the hole" is not a subject for this criminal case. Thus, the court will likewise deny these requests.

As to the motion for witness fees, the court has previously denied the defendant's motion to pay witness fees its order in Filing No. 565 and instructed defendant that the Clerk of Court shall award witness fees pursuant to their policy and procedures. The court denies the defendant's renewed motion for witness fees as to Filing No. 583, until such time as defendant files an affidavit of poverty.

THEREFORE, IT IS ORDERED THAT:

1. Defendant's motions to proceed in forma pauperis, Filing No. 581; motion for transcript, Filing No. 582; and motion to appoint counsel, Filing 580, are denied. Said motions are subject to reassertion if the defendant files a poverty affidavit as discussed herein.

2. The Clerk of Court is hereby ordered to provide a copy of the Financial Affidavit CJA form 23 to the defendant.

3. Defendant's motion for witness fees, Filing No. 583, is denied until such time as the defendant files an affidavit of poverty as set forth herein.

4. The motion to be treated equally, Filing No. 584, is denied.

5. The motion to stop the cruel and unusual punishment, Filing No. 585, is denied.

Dated this 3rd day of September, 2013.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge